IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.Rev.Pet.No. 854 of 1997

(Crl.A..No.13/92 of the Additional Sessions Court-I, Palakkad)

CC.46/1990 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

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REVN. PETITIONER:

SIRAJUDDIN
S/O SHAIK ISMAIL,
KINASSERI KOOTTUMUKKU
PALAKKAD

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM

BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Cr.R.P.NO.854 OF 1997

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Dated this the 13th day of December 2006

ORDER

The accused convicted for offence under Section 304-A IPC and sentenced thereunder to undergo R.I. for a term of three months and to pay a fine of Rs.1,000/- and in default to undergo R.I. for further term of two months is the petitioner in this revision, he having not been successful in the appeal filed by him as well. After full arguments on merits of the case and probably being convinced that there is no illegality or impropriety in the conviction of the petitioner for offence under Section 304-A IPC, counsel for petitioner submitted that he does not want the Revision to be considered on merits of the conviction under Section 304-A IPC but is only making an appeal for reduction of sentence so as to have the sentence of imprisonment avoided at the risk of increasing the fine amount to any amount as fixed by this court.

2. I heard submissions of the Public Prosecutor as well.

3. The occurrence in this case has taken place as early as in 1989. The trial court has not ordered cancellation of the

licence of the petitioner and consequently for all these years he was continuing his job as a driver. In the circumstances, I am of the view that no purpose would be served by enforcing sentence of R.I. for 3 months at this point of time as against the petitioner. Considering the entire circumstances of the case, I am of the view that the request made by the counsel for the petitioner can be favourably considered.

4. In the result, I confirm the conviction of the appellant for offence under Section 304-A IPC as there is no illegality or impropriety in the findings of the court below on the evidence adduced that the accused is guilty of offence under Section 304-A IPC. All the same, I modify the sentence awarded to the petitioner to one of imprisonment for one day till rising of court and to pay an amount of Rs.50,000/- by way of fine and in default to undergo R.I. for a term of five months. The petitioner shall surrender before the Chief Judicial Magistrate's Court, Palakkad positively on 30-1-2007 to serve the sentence and to make payment of the fine imposed. In case the fine is not paid on that day, trial court shall enforce the default sentence against the

petitioner forthwith in continuation of one day's imprisonment till rising of court as ordered above. In the event of the fine being realised, an amount of Rs.45,000/- from therein shall be disbursed to the legal heirs of the deceased on their establishing their claim as legal heir before the Chief Judicial Magistrate's Court, Palakkad or in the event of their establishing their claim as legal heir through a competent Civil Court.

This revision is disposed of as above.

K.P.BALACHANDRAN, JUDGE

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K.P.BALACHANDRAN, J.

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Cr.R.P.NO.854 OF 1997

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ORDER

Dated 13th day of December 2006